

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF

The Honorable Anthony A. Williams
Mayor
District of Columbia

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DATE: October 29, 2002

DOCKET NO.: CF 2002-11

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) pursuant to a referral from the Office of the Inspector General for the District of Columbia (hereinafter OIG) in a published report entitled "Report of Investigation of the Fundraising Activities of the Executive Office of the Mayor (EOM)" (hereinafter Report) (OIG Control Number 2001-0188 (S)). In the Report, the Inspector General has alleged that Anthony A. Williams, Mayor of the District of Columbia, engaged in prohibited activity that violated provisions of the District of Columbia Personnel Manual Standards Of Conduct.

Specifically, the OIG has alleged that Mayor Williams was engaged in private or personal business activity on government time and with the use of government resources of behalf of three (3) non-profit organizations: Millennium Washington Capital Bicentennial Corporation (MWCBC), Church Association for Community Service (CACS), and For the Kids Foundation, Inc. (FTKF). The OIG has also alleged that, in an effort to secure funding for participation in the Republican and Democratic National Conventions in July and August 2000, Mayor Williams (hereinafter respondent) solicited and received financial assistance from a District entity which conducts business with and is regulated by the District government. Overall, the respondent is alleged to have violated §§1800.1, 1803.1(f), 1803.2(A), and 1804.1(b) and (i) of the District Personnel Manual (hereinafter DPM).¹

¹ DPM §1800.1 reads as follows:

Employees of the District government shall at all times maintain a high level of ethical conduct in connection with

the performance of official duties, and shall refrain from taking, ordering or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

DPM §1803.1(f) reads as follows:

An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of the following:

. . .

(f) Affecting adversely the confidence of the public in the integrity of government.

DPM §1803.2(A) reads as follows:

District employees shall not solicit or accept, either directly or through the intercession of others, any gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with others:

- (a) Has, or is seeking to obtain, contractual business or financial relations with the D.C. government;
- (b) Conducts operations or activities that are subject to regulation by the D.C. government; or
- (c) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

DPM §1804.1(b) reads as follows:

An employee may not engage in any outside employment or other activity, which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include but are not limited to, the following:

. . .

(b) Using government time and resources for other than official business[, and]

. . .

(i) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the DPM employee conduct regulations. There was not any credible evidence that the respondent committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition). Any alleged violation of the Act by the respondent would be predicated upon the premises that respondent realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities.² See D.C. Official Code §1-1106.01. Additionally, fines may be assessed for any violation of the Act. OCF's review did not reveal any such activity.

Accordingly, where a violation of the DPM employee conduct regulations has occurred, OCF is limited with respect to any action which otherwise may be ordered. Inasmuch as the DPM consists of personnel regulations, fines cannot be assessed. The Director may only recommend disciplinary action to the person responsible for enforcing the provisions of the employee conduct rules against the respondent.

By letter dated June 7, 2002, OCF requested the appearance of the respondent at a scheduled hearing on June 17, 2002. The purpose of the hearing was to show cause why the respondent should not be found in violation of the Standards of Conduct, which the respondent was alleged to have violated in the OIG Report. In lieu of hearing, the respondent opted to provide a statement, which was submitted to OCF on June 24, 2002, by his counsel, Anthony Herman, Esq., of Covington & Burling in Washington, D.C.

² D.C. Law 14-36, "Campaign Finance Amendment Act of 2001," effective October 13, 2001, prohibits the use of District government resources for campaign related activities.

Summary of Evidence

The OIG has alleged that the respondent violated the above referenced provisions of the DPM as a result of his participation in MWCBC affairs; and, in the alleged fundraising activities of his former Chief of Staff, Dr. Abdusalam Omer (hereinafter Omer) and his former Deputy Chief of Staff for External Affairs, Mark Jones (hereinafter Jones). OIG staff interviewed the respondent on November 30, 2001. At that time, in reply to questions posed by OIG, the respondent conceded that he knew that MWCBC operated out of the Executive Office of the Mayor (hereinafter EOM) at One Judiciary Square at 441 4th Street, N.W., Washington, D.C.; and, that he was aware of the fundraising activities of Omer and Jones, because he initially delegated his mayoral authority to fundraise to same. The respondent stated that he believed that fundraising was permissible, and that he fired Omer and Jones when he found that that they failed to ensure an environment of propriety, good ethics and management control, over the delegated authority to fundraise for government.

The OIG has further alleged that the respondent violated the DPM provisions in August 2000, as a result of his solicitation of Lockheed Martin IMS (hereinafter Lockheed) to assist in underwriting the costs of certain mayoral receptions during the Republican National Convention (hereinafter RNC) in Philadelphia, Pennsylvania, and the Democratic National Convention (hereinafter DNC) in Los Angeles, California in August 2000. In his submitted reply, the respondent stated that his “. . . efforts to secure funding from a District contractor were for the purpose of advancing important civic goals – obtaining the right to vote and a Major League baseball team for the District [and that his] conduct was fully consistent with the Standards of Conduct.” He further stated that “. . . the RNC and DNC receptions were part and parcel of a multi-faceted program to establish public-private partnerships to fund civic events, initiatives and programs designed to benefit the District and its citizens.” Moreover, the respondent maintained that he had the authority to solicit Lockheed on behalf of the District of Columbia, in his official capacity and as part of his authorized duties. As a result, the Standards of Conduct are inapplicable. The respondent acknowledged that “. . . sufficient fundraising safeguards and procedures, such as record keeping, were not always in place [but emphasized that he] has now instituted new policies and procedures, including mandatory ethics training, for District government employees to correct the failures that occurred early in his administration so that questions of proper procedure do not arise again.”

Consequently, the OIG has alleged that the respondent engaged in activities which were not compatible with the full and proper discharge of his responsibilities as a government official and created the appearance of impropriety. The OIG relies exclusively upon its Report, which is incorporated herein in its entirety.

Findings of Fact

Having reviewed the allegation and the record herein, I find:

1. Respondent, Anthony A. Williams, who is Mayor of the District of Columbia, is a public official required to file a Financial Disclosure Statement (hereinafter FDS) with OCF.
2. MWCBC was incorporated in October 1999, under the auspices of Henry S. McCall (hereinafter McCall), then EOM Deputy Chief of Staff for External Affairs, as a private, non-profit corporation to solicit donations for the 2000 millennium celebration in the District of Columbia; and that respondent was aware thereof. Report at 50-51.
3. From November 1999 through the middle of January 2000, MWCBC operated out of the EOM office located at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C.; and that respondent was aware thereof. Report at 50-51 & 59.
4. From the middle of January through July 2000, MWCBC operated out of 1730 K Street, N.W., and was still supported by D.C. government funds and resources; and that respondent was aware thereof. Report at 59, 62 & 65.
5. Nonetheless, from July through November 2000, MWCBC operated, once again, out of the EOM office located at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C.; and that respondent was aware thereof. Report at 65 & 67.
6. McCall, Marie Drissel (hereinafter Drissel), and Gregory McCarthy (hereinafter McCarthy), who served as incorporators of MWCBC; Omer, who monitored MWCBC; Hyong Yi (hereinafter Yi) and Alfonza Fitzgerald (hereinafter Fitzgerald), who processed personal services contracts for certain employees of MWCBC; Drissel and Elizabeth Berke-Valencia (hereinafter Berke-Valencia), who, in part, managed and wrote checks on behalf of MWCBC; and Lisa Marie Morgan (hereinafter Morgan), who, in part, managed MWCBC accounts, were, as EOM employees, all public officials required to file FDS documents with OCF, and subject to the direction of the respondent.
7. The Church Association for Community Service (hereinafter CACS) “was founded in 1989 as a collaboration of pastors, ministers and faith-based organizations that combine their resources for the delivery of social services to District residents, particularly on behalf of those who are poor, elderly or disadvantaged[; and] maintains senior citizen and day care centers that are subsidized with District government funds [and became] active in providing affordable housing for the

District's lower income residents." Report at 76.

8. "CACS is a 501(c)(3) non-profit organization registered to do business in the District and licensed to solicit donations" and is headed by Rev. Frank Tucker, Pastor of the First Baptist Church of Washington, D.C. Id.
9. Jones, an EOM employee required to file FDS documents with OCF, and an employee subject to the direction of respondent and Omer, conducted fundraising and management activities on behalf of the non-profit CACS, when he used CACS as the conduit through which he financed mayoral programs, such as the January 2000 Mayor's Prayer Breakfast, transportation services for the respondent's mother to attend events on behalf of the respondent, and to sponsor Democratic National Convention (hereinafter DNC) expenses for himself and Omer.
10. For the Kids Foundation, Inc. (hereinafter FTKF) was a non-profit organization created early in 2000 by Vivian Byrd, then Trade Development Specialist, D.C. Lottery and Charitable Games Control (hereinafter DCLB), and Jones, then DCLB Deputy Director of Operations, designed to develop and implement, under the auspices of the Mayor, civic programs for the benefit of the children of the District of Columbia. Report at 157.
11. At least, from August 1999 through February 2001, Jones conducted the businesses of CACS and FTKF at his government office at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C. Id.; See In the Matter of Mark Jones, Docket No. PI 2001-101 (November 7, 2001) (hereinafter Matter of Jones).
12. Jones, an EOM employee required to file FDS documents with OCF, and one subject to the direction of respondent and Omer, conducted fundraising and management activities on behalf of the non-profit FTKF, of Washington, D.C., when he used FTKF to finance the 2000 Mayoral Holiday Party for Foster Children. Id.
13. Respondent may not have been aware that Jones was conducting fundraising directly for the non-profits, CACS and FTKF. Matter of Jones.
14. The respondent eventually fired Jones and Omer, publicly apologized for the actions of EOM employees who conducted fundraising and management responsibilities for MWCBC, CACS and FTKF, and instituted mandatory programs and procedures for EOM staff ethics training.
15. Among other things, respondent is officially responsible for advocating the interests of the District of Columbia, including the attainment of formal representation of its citizenry in the United States Congress, among the various states and the national

political parties; and, of a Major League baseball team.

16. Respondent sought to “. . .encourag[e] Lockheed to contribute to the cost of civic and non-partisan receptions, to showcase the District of Columbia at the 2000 Republican National and Democratic National conventions.” Report at 124-125.
17. Respondent sought the assistance of Lockheed to advocate District government interests, through its president and CEO, John Brophy, who agreed to fund the receptions and paid the vendors directly. Report at 125.

Conclusions of Law

1. Respondent is an elected official of the District of Columbia government and is subject to the enforcement provisions of the employee conduct regulations at DPM §§1800 et seq.
2. From October 1999 through November 2000, MWCBC, notwithstanding that it was a private, non-profit corporation, the purpose and proceeds of which inured to the District of Columbia government, was supported by D.C. government employees, funds and resources; and, the respondent believed that MWCBC business was government business.
3. McCall’s complete and total management of MWCBC and MWCBC accounts was private, corporate business and conduct, prohibited by the DPM regulations, of which respondent was aware and should not have condoned.
4. The participation by Drissel, McCarthy, Omer, Yi, Fitzgerald, Berke-Valencia, and Morgan, in MWCBC affairs, was conduct, prohibited by the DPM regulations, of which respondent was aware, and should not have condoned.
5. From the middle of 1999 through 2001, Jones used District government employees, supplies and times to solicit contributions for CACS and FTKF, private non-profit organizations, to fund mayoral programs and violated the DPM regulations because soliciting funds for a private non-profit organization is not government business; and, as the chief city executive, the respondent should have been aware of Jones’ conduct.
6. Respondent and Lockheed entered into a public-private partnership to fund certain receptions, on behalf of the respondent, for the 2000 Republican National and Democratic National conventions; and, that public-private partnership was deemed District government business.
7. Respondent sought and obtained the assistance of Lockheed to showcase the District

of Columbia at a reception at each of the 2000 Republican National and Democratic National conventions; and, notwithstanding Lockheed's assumption of the full financial responsibility of said receptions, respondent did not violate the employee conduct regulations because respondent was engaged in District government business.

8. Respondent's conduct was appropriate with regard to the public-private partnership with Lockheed to fund an evening reception at each of the 2000 Republican National and Democratic national conventions.

Recommendation

I recommend the Director to admonish the respondent for his obvious lack of institutional control and supervision over his employees. Whether or not the respondent was aware of the inappropriate fundraising activities, he should have known, or, at the least, inquired as to the activities of his senior staff. This record is completely devoid of any affirmative effort taken by the respondent, or taken by anyone on behalf of the respondent, to seek guidance regarding the fundraising matters from OCF.

Nonetheless, the respondent has publicly and privately apologized for his actions and those of his staff; and, he has taken steps to remove from his administration senior staff involved in inappropriate fundraising matters. It should be noted that prior to the issuance of the Report, the respondent appointed an EOM Ethics Counselor and scheduled meetings and workshops to inform and clarify each staff member as to the provisions and prohibitions of the Standards of Conduct.

Because the respondent has taken steps to definitively and thoroughly inform each staff member as to provisions and prohibitions of the Standards of Conduct, I hereby recommend that the Director advise the Mayor to be always cognizant of this responsibility.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the respondent be admonished for his obvious lack of institutional control and supervision over his employees. Whether or not the respondent was aware of the inappropriate fundraising activities, he should have known, or, at the least, inquired as to the activities of his senior staff. Moreover, the respondent had a duty to oversee Dr. Abdusalam Omer, Henry S. McCall, Hyong Yi, and Mark Jones. This record is completely devoid of any affirmative effort taken by the respondent, or taken by anyone on behalf of the respondent, to seek guidance regarding the fundraising matters from OCF.

Nonetheless, the respondent has publicly and privately apologized for his actions and those of his staff; and, he has taken steps to remove from his administration senior staff involved in inappropriate fundraising matters. It should be noted that prior to the issuance of the Report, the respondent appointed an EOM Ethics Counselor and scheduled meetings and workshops to inform and clarify each staff member as to the provisions and prohibitions of the Standards of Conduct.

Because the respondent has taken steps to definitively and thoroughly inform each staff member as to provisions and prohibitions of the Standards of Conduct, I hereby advise the respondent to be always cognizant of this responsibility.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

Parties Served:

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SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

S. Wesley Williams
Investigator

NOTICE

Pursuant to 3 DCMR § 3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this Order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, N.W., Washington, D.C. 20009.